

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 3911 OF 2023

Maharana Pratapsingh Construction ...Petitioner
Versus
The Solapur Municipal Corporation Thr.
Its Municipal Commissioner & Anr. ...Respondents

....

Mr. S. G. Kudle, Advocate for the Petitioner.

Mr. Vishwanath Patil, Advocate for Respondent No.1.

Mr. A. A. Alaspurkar, AGP for State/Respondent No.2.

**CORAM : G. S. KULKARNI &
R. N. LADDHA, JJ.**

DATE : March 30, 2023

P.C.

1. We have heard Mr. Kudle learned counsel for the petitioner, Mr. Patil learned counsel for the Respondent No.1/Solapur Municipal Corporation and Mr. Alaspurkar learned AGP for respondent No.2.

2. The petitioner was granted a license to conduct an "Adventure Park", by the respondent/the Solapur Municipal Corporation, under a leave and license agreement dated 2 February 2022. Such license was for a period of 24 months. It appears that the petitioner was conducting and undertaking activities under the license qua

the park in question. According to the petitioner due to some financial constraints, which had taken place, because of the effect of the Covid-19 pandemic, he could not make payment of the license fees to the Municipal Corporation. The case of the Municipal Corporation is that the petitioner is a defaulter for an amount of about Rs.6,00,000/-. The Municipal Corporation accordingly exercising its rights under the leave and license agreement, by several communications called upon the petitioner to deposit the amount. As the amounts were not deposited, by notice dated 30 January 2023 the Municipal Corporation terminated the leave and license agreement. It is on such backdrop the petitioner is before the Court praying for the following reliefs.

- “(a) Rule be issued. Records and proceedings of this case be called for;
- (b) This Hon’ble Court be pleased to issue the writ of certiorari, order direction or any other order direction or appropriate writ in the nature of certiorari calling for records and proceedings in respect of the impugned notice dated 30.1.2023 thereby revoking the leave and licence agreement which was executed for the two financial years after perusing the legality, propriety and correctness of the said notice, this Hon’ble Court be pleased to quash and set aside the said notice thereby holding that the same is unwarranted and uncalled for and not binding upon the Petitioner herein.
- (c) This Hon’ble Court be pleased to issue the writ of mandamus, order direction or any other order direction or writ of mandamus directing the Respondent No.1 herein to waive the rent amount for the period of 6 months on account of not having made the provision of the maintenance amount and also for not having been provided the necessary equipments i.e. sports articles which are essential for running the adventure park smoothly and effectively.
- (d) Pending the hearing and final disposal of this Writ Petition, the

operation execution and implementation of the order dated 30.1.2023 issued by Respondent No.1 he in be ordered to be stayed;

(e) Any other equitable, suitable order be kindly passed in favour of the Petitioner only.

(f) This Petition be allowed with costs;”

3. Having heard learned counsel for the parties and having perused the records, we are of the opinion that the dispute between the parties is purely a contractual dispute. If the petitioner is aggrieved by any action of the Municipal Corporation which according to the petitioner, is in the breach of the terms & conditions of the license which itself is a contract, the petitioner necessarily needs to assert such contentions in a civil suit including claim for any damages. The principles of law as observed by a Division Bench of this Court in the case of **Sugati Beach Resort Pvt. Ltd. Vs. Union of India and Ors.**¹ are applicable to the facts of the case. Thus, it may not be possible for us to adjudicate any disputed questions of fact and more particularly, arising out of a contract of a license.

4. We accordingly dispose of the petition with liberty to the petitioner to assert all contentions in a Civil Suit. If the same is filed within a period of 15 days, the petitioner shall have the benefit under the provisions of Section 14 of the Limitation Act as the petitioner

¹ 2018 (1) Mh. L. J. 939

was bona fide pursuing the present proceedings. All contentions of the parties on merits are expressly kept open.

5. Disposed of in the above terms. No costs.

[R. N. LADDHA, J.]

(G. S. KULKARNI, J.)